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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/300,042	04/27/1999	GREGORY B. THAGARD	3054/8	4009
22440 7590 08/17/2007 GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 10016-0601			EXAMINER BODDIE, WILLIAM	
			ART UNIT 2629	PAPER NUMBER
			MAIL DATE 08/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/300,042	<b>Applicant(s)</b> THAGARD ET AL.	
	<b>Examiner</b> William L. Boddie	<b>Art Unit</b> 2629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 62,66 and 68-72 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 62,66 and 68-72 is/are rejected.
- 7) ☒ Claim(s) 66 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

1. In an amendment dated, June 11<sup>th</sup>, 2007, the Applicants amended claims 62, 66 cancelled claims 32-34, 36-48, 51-60, 64-65, 67 and added new claims 68-72. Currently claims 62, 66 and 68-72 are pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 62, 66 and 68-72 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

3. Claim 66 is objected to because of the following informalities: line 1 currently states, "The the apparatus." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 62, 66, 68-69 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld et al. (US 6,302,796) in view of Samuel et al. (US 6,313,261).

**With respect to claim 62**, Lebensfeld discloses, an apparatus for playing a war game comprising:

a clothing article constructed to be worn by a participant in said war game (fig. 2);

a display (32 and 35-36 in fig. 2) formed on said clothing article formed of a layer of a light emitting polymer and a fabric base, said flexible display having fabric-like characteristics to conform to the body of the participant like a fabric and arranged to display selectively one of a plurality of images (any of the selected teams; and hit and blast shield indicators; col. 5, lines 33-36);

a controller (95 in fig. 9) generating signals for said display, said signals defining said images (col. 10, lines 46-51);

a gun (12 in fig. 2) coupled to said controller (23 in fig. 2), said gun generating a beam when activated by said participant (col. 6, lines 17-20); and

a sensor mounted on said clothing article (14 and 15 in fig. 2) and coupled to said controller (clear from figs. 8-10; also note col. 11, lines 18-24), said sensor detecting a hit from the gun of other participants (col. 6, lines 19-23);

wherein controller generates an indication corresponding to said hit (col. 5, lines 33-35, for example).

Lebensfeld does not expressly disclose, wherein the display is a flexible display formed on said clothing article formed of a layer of light emitting polymer and a fabric base said flexible display having fabric-like characteristics to conform to the body of the participant like a fabric.

Samuel discloses, a flexible display (fig. 4, for example) formed on a clothing article (col. 6, line 60) formed of a layer of a light emitting polymer (7 in fig. 4) and a fabric base (col. 5, lines 48-60) said flexible display having fabric-like characteristics to conform to the body of a wearer like a fabric (seems clear from fig. 6, line 60).

Samuel and Lebensfeld are analogous art because they are from the same field of endeavor namely, incorporation of electronic displays into clothing articles.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace the display of Lebensfeld with the flexible, polymer display of Samuel.

The motivation for doing so would have been to make the article more comfortable to wear due to increased flexibility as well as the advantages of processability and wide emission ranges (Samuel; col. 2, lines 15-21).

**With respect to claim 66**, Lebensfeld and Samuel disclose, the apparatus of claim 62 (see above).

Samuel further discloses, wherein said electronic display includes a protective layer on top of said layer of light emitting polymer material, said protective layer being made of one of a transparent and translucent material (col. 5, lines 48-50).

**With respect to claim 68**, Lebensfeld and Samuel disclose, the apparatus of claim 62 (see above).

Lebensfeld further discloses, wherein said sensor is disposed adjacent said flexible display (clear from fig. 2).

**With respect to claim 69**, Lebensfeld and Samuel disclose, the apparatus of claim 68 (see above).

Lebensfeld further discloses, wherein said sensor is surrounded by said flexible display (clear from fig. 2).

**With respect to claim 72**, Lebensfeld and Samuel disclose, the apparatus of claim 62 (see above).

Lebensfeld further discloses, wherein said flexible display is integrally incorporated into said clothing article (clear from fig. 2).

6. Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld et al. (US 6,302,796) in view of Samuel et al. (US 6,313,261) and further in view of Fitch (US 5,912,653).

**With respect to claim 70**, Lebensfeld and Samuel disclose, the apparatus of claim 62 (see above).

Neither Lebensfeld nor Samuel expressly disclose, further comprising a memory arranged to hold data associated with images, said controller being coupled to said memory to receive said data to generate said images on said flexible display.

Fitch discloses, a garment with a programmable video display unit (fig. 1) comprising a memory (26 in fig. 6) arranged to hold data associated with images, a controller (22 in fig. 6) being coupled to said memory (clear from fig. 6) to receive said data to generate said images on a liquid crystal display (12 in fig. 6).

Fitch, Samuel and Lebensfeld are analogous art because they are from the same field of endeavor namely, incorporation of electronic displays into clothing articles.

At the time of the invention it would have been obvious to one of ordinary skill in the art to include memory, as taught by Fitch, in the display of Lebensfeld and Samuel.

The motivation for doing so would have been to have access to a great number of possible images (Fitch; col. 5, lines 14-17).

7. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld et al. (US 6,302,796) in view of Samuel et al. (US 6,313,261) and further in view of Chu (US 6,279,170).

**With respect to claim 71**, Lebensfeld and Samuel disclose, the apparatus of claim 62 (see above).

Neither Lebensfeld nor Samuel expressly disclose, wherein said flexible display is formed on a separate panel, said apparatus further comprising a securing member arranged to secure said panel to said clothing article.

Chu discloses, a flexible display that is formed on a separate panel (col. 1, lines 37-41), said apparatus further comprising a securing member arranged to secure said panel to said clothing article (col. 1, lines 37-41).

Chu, Samuel and Lebensfeld are analogous art because they are from the same field of endeavor namely, incorporation of electronic displays into clothing articles.

At the time of the invention it would have been obvious to one of ordinary skill in the art to form the display of Lebensfeld and Samuel on a separate panel as taught by Chu.

The motivation for doing so would have been clear advantages such as allowing the user to interchange displays, as well as to simply remove the display all together.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Boddie whose telephone number is (571) 272-0666. The examiner can normally be reached on Monday through Friday, 7:30 - 4:30 EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wlb  
8/9/07



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